

NOT DESIGNATED FOR PUBLICATION
ARKANSAS COURT OF APPEALS
D. P. MARSHALL JR., Judge

DIVISION II

CA06-1232

23 MAY 2007

TAJUANA KAY COKER,

APPELLANT

v.

VINCENT EVERETT COKER,

APPELLEE

AN APPEAL FROM THE MILLER
COUNTY CIRCUIT COURT
[E-96-624-1]

HONORABLE JIM HUDSON,
JUDGE

REVERSED and REMANDED

The circuit court divorced the parties in 1997. In the decade since, they have continued to litigate about custody, visitation, relocation, child support, and other matters related to their daughter Kristen. In this appeal, Tajuana (Coker) Holman challenges the part of the circuit court's 2006 order about child support. The court denied her motion to increase support—and likewise denied Mr. Coker's motion to decrease it. We reverse and remand for the circuit court to make additional findings.

At the end of the last hearing, the court ruled from the bench. On the support issue, the court concluded:

What we've got to focus on is the time period between October 29th of 2004 and today. And that's true as to child support and it's true as to how much consideration I can give to the travel or relocation expenses.

And frankly, I don't think for child support payment purposes there's been a sufficient material change that would even allow me to move it up or down, so I'm not going to change it.

And I will say, for the purposes of possible appeal that if I could, I believe that there are sufficient reasons to deviate from the chart to justify the amount that is there and no more.

In due course, the circuit court entered an order that, among other things, denied Ms. Holman's motion for increased child support. The order did not give any reasons for the court's decision on support.

Mr. Coker pays \$94.00 a week in child support. The parties' 1997 divorce decree set that amount. According to Mr. Coker, in 2004 the circuit court rejected Ms. Holman's effort to increase support. The court, however, gave no reasons for its decision in its 2004 order—indeed, the support issue was resolved indirectly by the court's blanket denial of all other disputed issues not addressed in the order. Ms. Holman notes that Mr. Coker's argument for affirmance requires us to speculate about what happened in 2004. This much is clear: the parties brought us a record in this appeal that is murky about the 2004 ruling on support. No one appealed the 2004 order. The terms of the court's 2006 ruling, however, make the 2004 decision an important backdrop of the parties' current dispute.

In its most recent ruling, the circuit court concluded that it had to consider whether the parties' circumstances had materially changed since 2004 when the support issue was last adjudicated. The record made by the parties in 2006 establishes, however, that—in both 2004 and 2006—Mr. Coker's income resulted in a presumptively correct monthly child support obligation under Administrative Order Number 10 of approximately \$600.00. The circuit court's recent decision to leave his obligation at approximately \$400.00 a month thus deviated from the chart, albeit as the continuation of a deviation we assume was first made in 2004.

We reverse based on two errors of law. First, in evaluating whether any material change in circumstances about support had occurred, the circuit court should have looked back to the parties' 1997 divorce decree, which set the current amount of support. *Payton v. Wright*, 63 Ark. App. 33, 36–38, 972 S.W.2d 953, 955–56 (1998). The court's 2004 refusal to modify support did not create a new baseline for either party's later efforts to modify. *Ibid.*

Second, the record contains no specific written findings about the chart amount of support based on Mr. Coker's income and why that amount is unjust or inappropriate. Because the support award did not follow the chart, our law required those findings. To be sure, in its 2006 bench ruling the court stated that the record would support the deviation. But that general conclusion, made orally, does not satisfy Administrative Order Number 10's mandatory procedural requirements. *Alfano v.*

Alfano, 77 Ark. App. 62, 68–70, 72 S.W.3d 104, 108–09 (2002).

We therefore reverse and remand for the circuit court to make additional findings. The court should utilize the appropriate look-back period and adhere to Administrative Order Number 10 and its procedure for deviating from the Order if the court finds facts warranting a deviation. On remand, if the circuit court orders a change in support, then it should also address whether the change should be retroactive pursuant to Ark. Code Ann. § 9-14-107(d) (Supp. 2005). We emphasize one final point: we express no view on the merits of what amount of support Mr. Coker should be paying.

Reversed and remanded.

VAUGHT and HEFFLEY, JJ., agree.